

May 18, 2005

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L04P0007**
Proposed Ordinance No. **2005-0095**

BRANDON MEADOWS SUBDIVISION
Preliminary Plat Application and SEPA Appeal

Location: West side of 132nd Avenue Southeast, north of Southeast 312th Street

Applicant/Appellant: JG Real Estate Group NW, LLC
represented by **Hans Korve**
DMP, Inc.
726 Auburn Way North
Auburn, Washington 98002
Telephone: (253) 333-2200

King County: Department of Development and Environmental Services
represented by **Trishah Bull**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-6758
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SUMMARY OF DECISION/RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

EXAMINER PROCEEDINGS:

Hearing Opened:	May 2, 2005
Hearing Continued for Administrative Purposes:	May 2, 2005
Hearing Closed:	May 3, 2005

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Joe Singh
JG Real Estate Group NW, LLC
18124 Riviera Place SW
Seattle, WA 98166
(206) 799-3051

Engineer: DMP, Inc.
726 Auburn Way North
Auburn, WA 98002
(253) 333-2200

STR: NE-09-21-05

Location: The property is located on the west side of 132nd Avenue SE north of SE 312th Street.

Zoning: R-6-SO

Acreage: 10.23 acres

Number of Lots: 59

Density: 5.76 units per acre

Lot Size: Ranges from approximately 3,800 to 25,000 square feet

Proposed Use: Single-family detached dwellings

Sewage Disposal: City of Auburn

Water Supply: City of Auburn

Fire District: King County District #44

School District: Auburn School District #408

Pertinent Application Completeness Date: September 17, 2004

2. Except as modified herein, the facts set forth in the DDES preliminary report to the Examiner for the May 2, 2005 public hearing are found to be correct and are incorporated herein by reference.
3. The Applicant originally filed a preliminary plat application to subdivide approximately 10.23 acres into 55 lots for single-family dwellings in the R-6-SO zone. A revision was later submitted to revise the plat layout, increasing the lot yield to 59 lots. The near-rectangular property possesses double frontage, between 132nd Avenue Southeast to the east and 130th Avenue Southeast to the west, north of Southeast 312th Street. The site is not encumbered by any critical areas. Its topography consists of a variable but generally moderate grade descending westerly and southwesterly toward 130th Avenue Southeast. Five single-family residences and a number of out-buildings are located in the east and central portions of the site, with the residences gaining access from 132nd Avenue Southeast.
4. The surrounding area is one undergoing urbanization to standard suburban detached single-family residences, with recent subdivision developments to the west across 130th Avenue Southeast and a suburban subdivision under construction to the east across 132nd Avenue Southeast.

5. The proposed subdivision would contain lots ranging approximately from 3,800 square feet to 25,000 square feet, arrayed along one east-west through road (Southeast 308th Street) connecting 130th Avenue Southeast and 132nd Avenue Southeast in the northern portion of the subdivision, and two cul-de-sacs extending easterly from 130th Avenue Southeast and terminating in the mid-portions of the site. Four of the existing dwellings would remain, with the southern two along 132nd Avenue Southeast (Lots 54 and 55) continuing to use individual driveway accesses on that road (with the access locations possibly needing to be revised to maximize available sight distance). Development drainage facilities would meet Level 3 flow control design standards in mitigation of project drainage impacts.
6. The recreation tract proposed for the development consists of a 21,060 square foot tract (Tract B) located in the southwestern portion of the site fronting 130th Avenue Southeast. Given the relatively smaller size of the subdivision, topographical limitations on direct interior accessibility from the existing residences on 132nd Avenue Southeast (proposed Lots 15, 54 and 55), and the tract's inclusion of the property's major stand of significant valuable mature trees, Examiner finds that the proposed location sufficiently meets the central location requirement of KCC 21A.14.180(C)(4) in this case. (It is located in conformity with other requirements requiring convenient accessibility, visibility, etc.)
7. The Applicant has requested and DDES has concurred in minor revisions to condition language regarding the timing and the binding nature of traffic mitigation imposed by the proposal's Revised Mitigated Determination of Nonsignificance (MDNS) and recommended as a condition of approval.

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-6-SO zone.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on October 26, 2004, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *Brandon Meadows* subdivision, as revised and received October 26, 2004, is approved subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.

2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the density requirements of the R-6-SO zone classification. All lots shall meet the minimum dimensional requirements of the R-6-SO zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
7. The drainage detention facility shall be designed to meet at a minimum the Level 3 Flow Control and Basic Water Quality menu in the 1998 King County Surface Water Design Manual (KCSWDM).
8. A drainage adjustment (L04V0071) is approved to combine the onsite subbasins into one post-developed detention facility. All conditions of approval for this adjustment shall be incorporated into the engineering plans.

9. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):
 - a. SE 308th Street shall be improved at a minimum to the urban subcollector street standard; SE 309th Street shall be improved at a minimum to the urban subaccess street standard; and SE 309th Place shall be improved at a minimum to the urban minor access street standard.

Geotechnical recommendations for obtaining proper subgrade road and utility trench compaction under SE 309th Place shall be included with the engineering plans.
 - b. FRONTAGE: The frontage of the site along 132nd Ave SE shall be improved to the urban minor arterial standard (33 ft. half-width pavement section). The design shall require compliance with Section 4.01(f) of the KCRS; asphalt overlay when widening.

This frontage improvement shall include appropriate tapers (35:1) to the north and south in general conformance with the conceptual drainage plan submitted October 26, 2004. The final design of this improvement is to be included with the engineering plans.
 - c. Twelve feet of additional R/W is required to be dedicated along the 132nd Ave SE frontage as required for a 42 ft total half width R/W(west side).
 - d. FRONTAGE: The frontage along 130th Ave SE (east side) shall be improved at a minimum to the urban neighborhood collector standard. The design shall require compliance with Section 4.01(f) of the KCRS; asphalt overlay when widening.

Adequate drainage provisions for the offsite flow from the north along 130th Ave SE shall be included with the engineering plans.
 - e. Tract C shall be a minimum 26 feet wide and improved as a private access tract per Section 2.09 of the KCRS. This tract shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the engineering plans and on the final plat map.
 - f. Tracts D, E and F shall be a minimum 20 feet wide and improved as joint use driveways per Section 3.01 of the KCRS. These tracts shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the engineering plans and on the final plat map.
 - g. The driveways to the existing homes on Lots 54 and 55 can retain access to 132nd Ave SE; no other direct access to 132nd Ave SE is allowed.
 - h. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be

placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
13. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.
14. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., area calculations, dimensions, landscape specifications, equipment specifications, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the engineering plan. This plan must not conflict with the Significant Tree Inventory & Mitigation Plan.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
15. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
16. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.

- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if 132nd Avenue SE, 130th Avenue SE, or SE 308th Street is on a bus route. If 132nd Avenue SE, 130th Avenue SE, or SE 308th Street is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
17. To implement SO-220, which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention and engineering plans shall be consistent with the requirements of SO-220. No clearing of the site is permitted until the tree retention plan is approved by DDES. Flagging and temporary fencing of trees to be retained shall be provided, consistent with SO-220. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except as may be permitted under the provisions of SO-220.
- A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with KCC 21A.38.230B6. The tree retention plan shall be included as part of the final engineering plans for the subject plat.
18. In the event that any archaeological objects are uncovered on the site, the applicant shall comply with RCW Chapter 27.53, Archaeological Sites and Resources. Immediate notification and consultation with the State Office of Archaeology and Historical Preservation, King County Office of Cultural Resources and relevant tribes (including the Suquamish, Puyallup and Muckleshoot tribes) is required if discovered materials are prehistoric and a site is present.
19. The following have been imposed by the Revised Mitigated Determination of Nonsignificance (MDNS) issued by DDES under SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The applicants shall demonstrate compliance with these items prior to final approval.

To mitigate the significant adverse impact the plat of Brandon Meadows will have on the intersection of SR 18/SE 304th Street westbound on/off ramps, the Applicant shall install,

either individually or in conjunction with other development projects in the area, a traffic signal at the SR 18/SE 304th Street westbound on/off ramps intersection.

The design for the SR 18/SE 304th Street westbound on/off ramps intersection improvements shall be approved by the Washington State Department of Transportation. Documentation shall be submitted to show this requirement is met. All construction work associated with the intersection improvements shall be completed between April 1st and September 30th.

In lieu of the installation of the above-noted intersection improvements prior to final plat approval, the Applicant (or successors or assigns) – either individually or jointly with other developers --may post a financial guarantee with WSDOT which assures the installation of these improvements within two years of the recording of the plat of Brandon Meadows. In this event, intersection improvement design must be approved by WSDOT prior to King County approval of the engineering plans for Brandon Meadows.

If the above-noted intersection improvements have already been made by others prior to the recording of Brandon Meadows, or a financial guarantee has been posted by others which assures the installation of these improvements, then the Applicant (or successors or assigns) for Brandon Meadows shall pay a pro-rata share dollar amount to the developer who has made the improvements or “bonded” for the improvements, in an amount proportional to the impacts of Brandon Meadows. The pro-rata share dollar amount to be paid shall be set by WSDOT, and documentation shall be provided by the Brandon Meadows Applicant (or successors or assigns) to the King County Land Use Services Division to show this payment has been made, prior to final plat recording or prior to building permit issuance. The pro-rata share dollar amount to be paid should be based on the following:

- The final Brandon Meadows lot count.
- The trip distribution for Brandon Meadows described in terms of project trip assignment on Figure 5, page 14 of the *Brandon Meadows A Traffic Impact Analysis*, dated October 28, 2004 and prepared by Christopher Brown and Associates.
- The total trips contributed to the intersection of SR 18/SE 304th Street westbound on/off ramps by the plats of Brandon Meadows (L04P0007), Kendall Ridge (L04P0035), Willows piggy-back short plats (L04S0017 and L04S0019), and any future land use applications submitted to King County for which compliance with the King County Intersection Standards (KCC 14.80) is required at the SR 18/SE 304th Street westbound on/off ramps intersection High Accident Location.

In the event that either King County or WSDOT adopts a formal “latecomer’s” system prior to final plat recording, that system may be followed in lieu of the approach described above, at the discretion of the Applicant (or successors or assigns), as long as at a minimum there is a financial guarantee which assures the above-noted intersection improvements will be installed within two years of the date of recording of the plat of Brandon Meadows [Comprehensive Plan Policy T-303 and King County Code 21A.28.060A].

In the event that WSDOT establishes an improvement project (signalization or adopted alternative by WSDOT) account number to fund correction of the HAL and resolve forecast LOS conditions created by the incremental and cumulatively significant impacts of development at the SR 18 WB ramps at this location prior to final plat recording, the Applicant (or successors or assigns) shall make a pro-rata share payment to WSDOT in an

amount not to exceed \$750 per lot [Comprehensive Plan Policy T-303 and King County Code 21A.28.060A] at or before final plat recordation or prior to building permit issuance. The pro-rata share will be based upon the final number of lots proposed in the plats of Brandon Meadows (L04P0007), Kendall Ridge (L04P0035), Willows piggy-back short plats (L04S0017 & L04S0019), Green River Community College Science Building (A04PM089). The pro-rata share may be based, as well, on any future land use applications submitted to King County for which compliance with the King County Intersection Standards (KCC 14.80.030A or 14.80.030B) is required at the SR 18 / SE 304th Street westbound on/off ramps intersection and may be based upon the final number of lots proposed in the plat of Verdana, submitted to the City of Kent.

ORDERED this 18th day of May, 2005.

Peter T. Donahue, Deputy
King County Hearing Examiner

TRANSMITTED this 18th day of May, 2005, to the following parties and interested persons of record:

Jim Arnold
12938 SE 308th Pl.
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DDES/LUSD
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Bruce Whittaker
DDES/LUSD
Prel. Review Engineer
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before June 1, 2005***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before June 8, 2005***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE MAY 2, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT
AND ENVIRONMENTAL SERVICES FILE NO. L04P0007.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Trishah Bull, Kristen Langley and Bruce Whittaker, representing the Department and Hans Korve representing the Appellant and Christopher Brown.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES File No. L04P0007
- Exhibit No. 2 DDES Preliminary Report dated May 2, 2005
- Exhibit No. 3 Application dated May 13, 2004
- Exhibit No. 4 Environmental Checklist dated May 13, 2004
- Exhibit No. 5 Revised Mitigated Determination of Non-Significance dated April 8, 2005
- Exhibit No. 6 Affidavit of Posting indicating November 22, 2004 as date of posting and November 23, 2004 as the date the affidavit was received by DDES
- Exhibit No. 7 Preliminary Plat Map dated October 26, 2004 (revised)
- Exhibit No. 8 Assessors Maps: NE 09-21-05 & 10-21-05
- Exhibit No. 9 Kroll Page 721E
- Exhibit No. 10 Preliminary Drainage report by DMP, Inc. received May 13, 2004

Exhibit No. 11 L04V0071 – Approved KCSWDM Adjustment

Exhibit No. 12 Conceptual Channelization Plan received October 26, 2004 (revised)

Exhibit No. 13 Traffic Impact Analysis by Christopher Brown & Associates received
November 3, 2004 (revised)

Exhibit No. 14 Letter retracting SEPA appeal received April 14, 2005

PTD:gao

L04P0007 RPT